

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1069

CA 14-02113

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, LINDLEY, AND VALENTINO, JJ.

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JOANN ABBO-BRADLEY, INDIVIDUALLY AND AS PARENT  
AND NATURAL GUARDIAN OF DYLAN J. BRADLEY,  
TREVOR A. BRADLEY AND CHASE Q. BRADLEY, INFANTS,  
ZACHARY HERR AND MELANIE HERR, INDIVIDUALLY AND  
AS PARENTS AND NATURAL GUARDIANS OF COLETON HERR  
AND HEATHER HERR, INFANTS, AND NATHAN E. KORSON AND  
ELENA KORSON, INDIVIDUALLY AND AS PARENTS AND  
NATURAL GUARDIANS OF LOGAN J. KORSON, AN INFANT,  
PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

CITY OF NIAGARA FALLS, ET AL., DEFENDANTS,  
AND CONESTOGA-ROVERS & ASSOCIATES,  
DEFENDANT-RESPONDENT.  
(APPEAL NO. 3.)

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PHILLIPS & PAOLICELLI LLP, NEW YORK CITY (STEPHEN J. PHILLIPS OF  
COUNSEL), FOR PLAINTIFFS-APPELLANTS.

HODGSON RUSS LLP, BUFFALO (JEFFREY C. STRAVINO OF COUNSEL), FOR  
DEFENDANT-RESPONDENT.

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Appeal from an order of the Supreme Court, Niagara County  
(Richard C. Kloch, Sr., A.J.), entered August 15, 2014. The order  
granted the motion of defendant Conestoga-Rovers & Associates, to  
dismiss the second amended complaint against it and dismissed the  
second amended complaint against that defendant.

It is hereby ORDERED that the order so appealed from is  
unanimously modified on the law by denying that part of the motion of  
defendant Conestoga-Rovers & Associates seeking to dismiss the second  
amended complaint against it and reinstating the second amended  
complaint against that defendant except insofar as the third and  
fourth causes of action assert claims by each plaintiff as parent and  
natural guardian of an infant child or children, and as modified the  
order is affirmed without costs.

Same memorandum as in *Abbo-Bradley v City of Niagara Falls*  
([appeal No. 1] \_\_\_ AD3d \_\_\_ [Oct. 2, 2015]).

Entered: October 2, 2015

Frances E. Cafarell  
Clerk of the Court